



PATENT APPLICATION
Serial No. 09/424,815
Atty. Docket No. 702-991768

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Group Art Unit 1653 : NOV 26 2002
In re Application of : TECH CENTER 1600/2900
Petrus H. NIBBERING et al. : ANTIMICROBIAL PEPTIDES
Serial No. 09/424,815 : DERIVED FROM UBIQUICIDINE
Filed April 10, 2000 :
Examiner – Sheridan K. Snedden :

Pittsburgh, Pennsylvania
November 18, 2002

RESPONSE TO RESTRICTION REQUIREMENT

Box Non-Fee Amendment
Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Official Action dated October 16, 2002, Applicants submit the following response and remarks. The outstanding Restriction Requirement was mailed on October 16, and the period set for response was one month, bringing the response to be due on November 16, 2002. Since this date falls on a Saturday, the time for filing the response is extended under 37 CFR § 1.7 to Monday, November 18, 2002.

The Examiner asserts that the application contains claims drawn to four separate inventions. The Examiner has requested election and restriction among Group I,

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Ellen Harteau
(Name of Person Mailing Paper)

Signature

11/18/2002

Date


including claims 28-40, 46, 48 and 53-55, covering peptide fragments and derivatives of SEQ ID NO: 1 and hybrid molecules possessing antimicrobial activity; Group II, including claims 41-45, 47, 49 and 60, covering a method of treating infection; Group III, including claims 50-51 and 56-58, covering a method of labeling a cationic peptide; and Group IV, including claims 52 and 59, covering a method of making ubiquicidine. Applicants provisionally elect to prosecute the claims of Group I with traverse.

The Examiner asserts that a lack of unity of invention exists among the claims of Groups I-IV, because the common special technical feature of fragments of the amino acid sequence of SEQ ID NO: 1 is taught by Olvera, J. et al., "The carboxyl extension of ubiquitin-like protein is rat ribosomal protein S30," *J. Biol. Chem.* **268**(24): 17967-74 (Aug. 25, 1993). Applicants maintain that, though Olvera makes reference to a ubiquitin-like protein, Olvera makes no reference to species that are identifiable fragments of the amino acid of SEQ ID NO: 1. Olvera refers to a species containing SEQ ID NO: 1, and refers to an analysis based on a portion of the sequence of SEQ ID NO: 1, but this does not correspond to a teaching of an isolated, identifiable fragment of the amino acid of SEQ ID NO: 1. Therefore, it is believed that the common special technical feature of the claims of Groups I-IV of the present invention is a contribution over the prior art, that the claims of Groups I-IV exhibit unity of invention, and that restriction to a single group of claims should not be required.

Examination and allowance of claims 28-40, 46, 48 and 53-55 are respectfully
requested.

Respectfully submitted,

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By 
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**TRANSMITTAL LETTER**

Box Non-Fee Amendment
Commissioner for Patents
Washington, D.C. 20231

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NOV 26 2002

Serial No.: 09/425,815 Filing Date: April 10, 2000 **TECH CENTER 1600/2900**
Examiner: Sheridan K. Snedden Group Art Unit: 1653
Invention: "Antimicrobial Peptides Derived From Ubiquicidine"

Transmitted herewith is an Amendment in the above-identified application.

- ☐ Small entity status of this application under 37 CFR 1.27 has been established by a verified statement previously submitted.
☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.
☒ No additional fee is required.
☐ The fee has been calculated as shown below:

| No. of Claims After <u>Amendment</u> | Highest No. Previously <u>Paid For</u> | Present <u>Extra</u> | Small Entity <u>Rate</u> | Non-Small Entity <u>Rate</u> | <u>Charge</u> |
|--|--|-------------------------|--------------------------------|------------------------------------|---------------|
| Total <u>33</u> | <u>26</u> | <u>-0-</u> X | \$ 9.00 | X \$ 18.00 | \$ <u>-0-</u> |
| Indep. <u>13</u> | <u>10</u> | <u>-0-</u> X | \$ 42.00 | X \$ 84.00 | \$ <u>-0-</u> |
| First Presentation of Multiple Dep. Claim | | | + \$140.00 | + \$280.00 | \$ <u>-0-</u> |
| Total Additional Fee | | | | | \$ <u>-0-</u> |

- ☐ A check in the amount of \$ is enclosed to cover the Notice of Appeal fee.
☐ A check in the amount of \$ is enclosed for a month Petition for Extension of Time.
☒ The Commissioner is hereby authorized to charge payment of the following fees associated with this communication to Deposit Account No. 23-0650. Please refund any overpayment to Deposit Account No. 23-0650. An original and two copies of this sheet are enclosed.
☒ Any additional filing fees required under 37 CFR 1.16.
☒ Any patent application processing fees under 37 CFR 1.17.

November 18, 2002

Date

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Ellen Harteau

Signature

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